

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 16 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 8, 16 and 24, "the at least one finger" lacks antecedence.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 4, 5, 7-10, 12, 13, 15-18, 20, 21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,167,597 to Malin.

Malin discloses the claimed device, especially the first and second pairs of opposed lateral flanges (48) each having respective first and second generally flat facing surfaces; with the first flat facing surface abutting the second flat facing surface. See Fig. 2B. However, Malin does not show the facing side of at least one of the front and back zipper profiles being wider than its attaching side. Malin does teach that it is known in the art to form opposed lateral flanges (70, 72) as an inverted triangle. See

Fig. 2F. It would have been obvious to person having ordinary skill in the art at the time the invention was made to provide the first and second pairs of opposed lateral flanges of Malin in the shape of an inverted triangle, shown in Fig. 2F of Malin, since a change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Furthermore, providing the first and second pairs of opposed lateral flanges of Malin in the shape of an inverted triangle, as discussed above, would inherently result in the facing side of at least one of the front and back zipper profiles being wider than its attaching side.

Regarding claims 8, 16 and 24, Malin discloses the claimed device, as discussed above, except for at least one of the fingers being rounded at its top edge. It would have been an obvious matter of design choice to make the top edge of the Malin fingers rounded or whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results.

5. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malin and U.S. Patent No. 5,215,380 to Custer et al.

Malin discloses the claimed device except for the step of guiding the edges of the zipper profiles to a desired location between first and second bag films with guides. Custer et al. discloses that it is known in the art to guide an analogous zipper profiles to a desired location between first and second bag films using guides. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

guide the zipper profiles Malin to a desired location between first and second bag films using guides as taught by Custer et al. for the purpose of assuring proper application of the zipper profiles to the first and second bag films.

Regarding claim 27, Malin and Custer et al. disclose the device, as discussed above, except for the guides having ends that are inverted arrow shaped. It would have been an obvious matter of design choice to make the ends of the Custer et al. guides an inverted arrow shape of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. Applicant's remarks filed 09/27/2006 are silent with respect to the Examiner's statement of obvious design choice. Therefore, the Examiner's statement of obvious design choice is taken to be admitted prior art because applicant's traverse was inadequate.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 2, 4, 5, 7-10, 12, 13, 15-18, 20, 21 and 23-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments

made to the disclosure. See MPEP 714.02 and MPEP 2163.06. The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jes F. Pascua/
Primary Examiner, Art Unit 3782